IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 434 (MS) OF 2006

Gopi Chand, S/o Tara Chand,
R/o Fatehpur, Dhola Pargana Gangoh, Tehsil Nakud,
District-Saharanpur. ....Petitioner.

Versus

1. Additional Family Court Judge, Roorkee.
2. Smt. Reena, W/o Gopi Chand, D/o Vijay pal, R/o Lavva, PS Bhagwanpur, District Haridwar, at present R/o Tally Wala, Pargana Jwalapur, Tehsil & District Haridwar.

...Respondents.

Sri Sanjeev Singh, Advocate for the petitioner.
Learned standing Counsel.

Dated: 26.04.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 30th May, 2006 passed by the respondent no.1 in Suit No. 31/05 Smt. Reena Vs. Gopi Chand, U/s 24/25 of Hindu Marriage Act. Further prayer has been made for a writ of mandamus for staying the effect and operation of the order dated 30.03.2006 passed by respondent no. 1 in Suit No. 31/05 Smt. Reeena Vs. Gopi Chand, U/s 24/25 of Hindu Marriage Act.

Briefly stated, the petitioner has filed the petition under Section 13(1) (Ka) of the Hindu Marriage Act, 1995 for the dissolution of marriage. Written statement has already been filed by the respondent no. 2.

During the pendency of the case, the application was filed by the respondent no. 2 under Section 24 and 25 of the

Hindu Marriage Act praying for the interim maintenance to the extent of Rs. 10,000/- as lumpsome amount and a sum of Rs. 5,000/- per month towards litigation expenses.

The petitioner has filed the reply and has stated that the amount claimed is to much excessive. The Family Judge, Roorkee vide order dated 30th March, 2006 has come to the conclusion that the respondent no. 2 has claimed an amount of Rs. 5,000/- towards maintenance and she has no source of livelihood and she is fully dependent upon her father and mother. However, a sum of Rs. 2000/- has been awarded towards maintenance and a sum of Rs. 5,000/- towards litigation expenses.

Perused the record and heard the counsel for the parties. A sum of Rs. 2000 per month has been awarded towards monthly maintenance and a sum of Rs. 5,000/- towards litigation charges. The Family Judge has considered that the respondent no. 2 has no source of livelihood and as such I find that the amount of Rs. 2,000/- is very fair and need no interference under Article 226 for the Constitution of India.

So far as the litigation expenses are concerned, the same shall be payable to Rs. 4,000/- and the same shall be payable in two instalments on an interval of six weeks. For the remaining amount of Rs. 1000/- towards litigation expenses, the respondent may apply in the court of Family Judge for reconsideration, in case it is not reduced, the same shall also be payable by the petitioner on the extended time prescribed by the Family Judge.

So far as the arrears of maintenance is concerned, the same shall also be paid by the petitioner in two equal instalments on the same intervals. Since the petition has been filed on 22.10.2005, therefore, it is desirable in the interest of justice that the same may be disposed of within a period of

four months from the date of presentation of the certified copy of the order.

Subject to the aforesaid observations, writ petition is dismissed.

(Rajesh Tandon, J.)

26.04.2006
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